

South Dakota Unsafe School Choice Option (USCO) Policy

In accordance with Section 8532 of the Elementary and Secondary Education Act, as reauthorized by the Every Student Succeeds Act of 2015, South Dakota has established an Unsafe School Choice Option (USCO) policy.

Effective July 1, 2003, and updated June 1, 2017, the State of South Dakota through the Department of Education (SD DOE) shall implement a Unsafe School Choice Option (USCO) policy that allows students who attend a persistently dangerous school, or students who become victims of a violent criminal offense while in or on the grounds of a public school that they attend, to transfer to a safe public school within the public school district (Local Education Agency, or LEA, per federal definition).

In order to implement the policy, SD DOE will:

- Identify persistently dangerous schools according to criteria established for this purpose;
- Identify types of offenses that are considered to be violent criminal offenses;
- Provide a safe public school choice option.

Identification Criteria

The following will be used to identify persistently dangerous schools:

- Multiple violent criminal offenses in two or more consecutive years, including the most recent school year, as set forth in South Dakota state law, including:
 - whether committed by or victimizing students, school personnel or non-school personnel;
 - that occur 24 hours a day (not just during school hours);
 - that occur 12 months a year (not just during the school year);
 - that occur on school grounds, school property, or school-related and/or school-sponsored events, including buses and sports arenas.

The number of multiple violent criminal offenses used to determine each school's status as a safe school or a persistently dangerous school shall be calculated according to the following formula:

- One or more violent criminal offenses per 50 students enrolled with a maximum of 10 offenses per year, in two consecutive school years shall classify a school as persistently dangerous.

SD DOE will maintain a list of offenses that the state considers to be "violent criminal offenses" for purposes of the USCO policy. SD DOE shall use data collected via the annual Safe and Drug/Gun-Free Schools data collection process for purposes of implementing the USCO policy. SD DOE will annually reassess each school's status, using the criteria outlined in this policy for identification of persistently dangerous schools.

Definition of Violent Criminal Offenses:

Violent Criminal Offenses (as defined in South Dakota codified law) that are a) reported by schools via annual Safe & Drug/Gun Free Schools data collection, and b) used by the Department of Education for identification of “persistently dangerous schools” per federal *Unsafe School Choice Option* requirements:

- Arson
- Battery (aggravated assault)
- Homicide
- Kidnapping
- Robbery
- Sexual Battery
- Firearm Possession with intent to do harm - Handgun, Rifle/Shotgun, Other Firearm
- Weapon Possession with intent to do harm – all other weapons, not firearms

Required Actions Following Identification as Persistently Dangerous

A South Dakota public school district (LEA) that has one or more schools identified as persistently dangerous must:

1. Within 10 school days from the time a school in the district is declared to be a persistently dangerous school:
 - a. Notify parents of each student attending the school that the state has identified the school as persistently dangerous;
 - b. Offer students the opportunity to transfer to a safe public school within the district and, to the extent possible, allow the transferring students to transfer to a school that is making adequate yearly progress and has not been identified as being in school improvement, corrective action, or restructuring; and
 - c. Complete the transfer within 30 school days for those students who accept the offer.
2. Within 20 school days from the time that the district is notified that the school has been identified as persistently dangerous, develop a corrective action plan and submit it to SD DOE for approval; and
3. Implement the plan of corrective action in a timely manner and maintain documentation in district files of its actions.

Student transfers under these provisions may be temporary or permanent, but must be in effect as long as the student’s original school is identified as persistently dangerous. If there is not another school in the district for the students who desire to transfer, the district is encouraged, but not required, to explore other appropriate options such as an agreement with a neighboring public school district to accept transfer students. The district is not required to pay transportation costs for transferring students, but is encouraged to explore options to help cover costs.

SD DOE will review the plan of corrective action, and, if requested, will provide technical assistance as the plan is implemented. SD DOE will monitor the district’s timely completion of the approved plan.

Upon completion of its planned corrective action, the public school district may apply to SD DOE in writing to have the school removed from the state’s list of persistently dangerous schools. Upon receipt of an application for removal from the list, SD DOE will:

1. Ensure that all corrective actions set forth in the approved plan have been completed;
2. Reassess the school using the criteria set forth in this policy for the identification of persistently dangerous schools.

Students Who Have Been Victims of a Violent Criminal Offense

In accordance with the South Dakota USCO policy, a public school district should offer, within 10 calendar days, an opportunity to transfer to a safe public school within the school district to any student who has become the victim of a violent criminal offense while in or on the grounds of the public school that the student attends.

To the extent possible, the public school district should allow the student(s) transferring under these circumstances to transfer to a school that is meeting its long-term and interim goals, and has not been identified as being in school improvement.

If there is not another safe public school in the public school district, district officials are encouraged, but not required, to explore other appropriate options such as an agreement with a neighboring public school district to accept transfer students. The district is not required to pay transportation costs for transferring students, but is encouraged to explore options to help cover costs.